

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 11a-9, 11a-11, and 11a-12 as follows:

6 (755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)
7 Sec. 11a-9. Report.)

8 (a) The petition for adjudication of disability and for
9 appointment of a guardian should be accompanied by a report
10 which contains (1) a description of the nature and type of the
11 respondent's disability and an assessment of how the disability
12 impacts on the ability of the respondent to make decisions or
13 to function independently; (2) an analysis and results of
14 evaluations of the respondent's mental and physical condition
15 and, where appropriate, educational condition, adaptive
16 behavior and social skills, which have been performed within 3
17 months of the date of the filing of the petition; (3) an
18 opinion as to whether guardianship is needed, the type and
19 scope of the guardianship needed, and the reasons therefor; (4)
20 a recommendation as to the most suitable living arrangement
21 and, where appropriate, treatment or habilitation plan for the
22 respondent and the reasons therefor; (5) the name, business
23 address, business telephone number, and ~~the~~ signatures of all

1 persons who performed the evaluations upon which the report is
2 based, one of whom shall be a licensed physician and a
3 statement of the certification, license, or other credentials
4 that qualify the evaluators who prepared the report.

5 (b) If for any reason no report accompanies the petition,
6 the court shall order appropriate evaluations to be performed
7 by a qualified person or persons and a report prepared and
8 filed with the court at least 10 days prior to the hearing.

9 (b-5) Upon oral or written motion by the respondent or the
10 guardian ad litem or upon the court's own motion, the court
11 shall appoint one or more independent experts to examine the
12 respondent. Upon the filing with the court of a verified
13 statement of services rendered by the expert or experts, the
14 court shall determine a reasonable fee for the services
15 performed. If the respondent is unable to pay the fee, the
16 court may enter an order upon the petitioner to pay the entire
17 fee or such amount as the respondent is unable to pay. However,
18 in cases where the Office of State Guardian is the petitioner,
19 consistent with Section 30 of the Guardianship and Advocacy
20 Act, no expert services fees shall be assessed against the
21 Office of the State Guardian.

22 (c) Unless the court otherwise directs, any report prepared
23 pursuant to this Section shall not be made part of the public
24 record of the proceedings but shall be available to the court
25 or an appellate court in which the proceedings are subject to
26 review, to the respondent, the petitioner, the guardian, and

1 their attorneys, to the respondent's guardian ad litem, and to
2 such other persons as the court may direct.

3 (Source: P.A. 89-396, eff. 8-20-95.)

4 (755 ILCS 5/11a-11) (from Ch. 110 1/2, par. 11a-11)

5 Sec. 11a-11. Hearing.

6 (a) The respondent is entitled to be represented by
7 counsel, to demand a jury of 6 persons, to present evidence,
8 and to confront and cross-examine all witnesses. The hearing
9 may be closed to the public on request of the respondent, the
10 guardian ad litem, or appointed or other counsel for the
11 respondent. Unless excused by the court upon a showing that the
12 respondent refuses to be present or will suffer harm if
13 required to attend, the respondent shall be present at the
14 hearing.

15 (b) (Blank) .

16 (c) (Blank) ~~Upon oral or written motion by the respondent~~
17 ~~or the guardian ad litem or on the court's own motion, the~~
18 ~~court shall appoint one or more independent experts to examine~~
19 ~~the respondent. Upon the filing with the court of a verified~~
20 ~~statement of services rendered by the expert or experts, the~~
21 ~~court shall determine a reasonable fee for the services~~
22 ~~performed. If the respondent is unable to pay the fee, the~~
23 ~~court may enter an order upon the petitioner to pay the entire~~
24 ~~fee or such amount as the respondent is unable to pay. However,~~
25 ~~in cases where the Office of State Guardian is the petitioner,~~

1 ~~consistent with Section 30 of the Guardianship and Advocacy~~
2 ~~Act, no expert services fees shall be assessed against the~~
3 ~~Office of the State Guardian.~~

4 (d) In an uncontested proceeding for the appointment of a
5 guardian the person who prepared the report required by Section
6 11a-9 will only be required to testify at trial upon order of
7 court for cause shown.

8 (e) At the hearing the court shall inquire regarding: (1)
9 the nature and extent of respondent's general intellectual and
10 physical functioning; (2) the extent of the impairment of his
11 adaptive behavior if he is a person with a developmental
12 disability, or the nature and severity of his mental illness if
13 he is a person with mental illness; (3) the understanding and
14 capacity of the respondent to make and communicate responsible
15 decisions concerning his person; (4) the capacity of the
16 respondent to manage his estate and his financial affairs; (5)
17 the appropriateness of proposed and alternate living
18 arrangements; (6) the impact of the disability upon the
19 respondent's functioning in the basic activities of daily
20 living and the important decisions faced by the respondent or
21 normally faced by adult members of the respondent's community;
22 and (7) any other area of inquiry deemed appropriate by the
23 court.

24 (f) An authenticated transcript of the evidence taken in a
25 judicial proceeding concerning the respondent under the Mental
26 Health and Developmental Disabilities Code is admissible in

1 evidence at the hearing.

2 (g) If the petition is for the appointment of a guardian
3 for a disabled beneficiary of the Veterans Administration, a
4 certificate of the Administrator of Veterans Affairs or his
5 representative stating that the beneficiary has been
6 determined to be incompetent by the Veterans Administration on
7 examination in accordance with the laws and regulations
8 governing the Veterans Administration in effect upon the date
9 of the issuance of the certificate and that the appointment of
10 a guardian is a condition precedent to the payment of any money
11 due the beneficiary by the Veterans Administration, is
12 admissible in evidence at the hearing.

13 (Source: P.A. 88-32; 88-380; 88-670, eff. 12-2-94; 89-396, eff.
14 8-20-95.)

15 (755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)
16 Sec. 11a-12. Order of appointment.)

17 (a) If basis for the appointment of a guardian as specified
18 in Section 11a-3 is not found, the court shall dismiss the
19 petition.

20 (b) If the respondent is adjudged to be disabled and to
21 lack some but not all of the capacity as specified in Section
22 11a-3, and if the court finds that guardianship is necessary
23 for the protection of the disabled person, his or her estate,
24 or both, the court shall appoint a limited guardian for the
25 respondent's person or estate or both. The court shall enter a

1 written order stating the factual basis for its findings and
2 specifying the duties and powers of the guardian and the legal
3 disabilities to which the respondent is subject.

4 (c) If the respondent is adjudged to be disabled and to be
5 totally without capacity as specified in Section 11a-3, and if
6 the court finds that limited guardianship will not provide
7 sufficient protection for the disabled person, his or her
8 estate, or both, the court shall appoint a plenary guardian for
9 the respondent's person or estate or both. The court shall
10 enter a written order stating the factual basis for its
11 findings.

12 (d) The selection of the guardian shall be in the
13 discretion of the court, which shall give due consideration to
14 the preference of the disabled person as to a guardian, as well
15 as the qualifications of the proposed guardian, in making its
16 appointment. However, the paramount concern in the selection of
17 the guardian is the best interest and well-being of the
18 disabled person.

19 (Source: P.A. 97-1093, eff. 1-1-13.)